

May 21, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

VERONICA R., OBO: E.R. MINOR,
Plaintiff,
v.
COMMISSIONER OF SOCIAL
SECURITY ADMINISTRATION,
Defendant.

No. 1:24-CV-03126-SAB

**ORDER AFFIRMING THE
DECISION OF THE
COMMISSIONER**

Plaintiff brings this action seeking judicial review of the Commissioner of Social Security's final decision denying her application for social security benefits, filed on behalf of her minor child E.R. Plaintiff is represented by Chad Hatfield. The Commissioner is represented by Noah Schabacker and Brian Donovan.

After reviewing the administrative record, briefs filed by the parties, and applicable case law, the Court is fully informed. For the reasons set forth below, the Court **affirms** the Commissioner's decision.

I. JURISDICTION

On March 2, 2022, Plaintiff filed an application for supplemental security income ("SSI") on behalf of her minor son, E.R., with the onset date as his birth on April 3, 2021. He suffered symbrachydactyly, respiratory syncytial virus ("RSV"),

ORDER AFFIRMING THE DECISION OF THE COMMISSIONER ~ 1

1 and has other breathing issues. On June 6, 2022, the Social Security Administration
2 (“SSA”) initially denied Plaintiff’s claim for SSI payments.

3 Plaintiff E.R.’s mother appealed and the SSA affirmed. She timely requested
4 a hearing in front of an Administrative Law Judge (“ALJ”), which took place
5 telephonically on November 15, 2023.

6 On December 21, 2023, the ALJ found E.R. not disabled and that he had not
7 been since the application was filed in March 2022. Plaintiff E.R.’s mother
8 requested a review by the Appeals Council, which was denied. The Appeals
9 Council’s denial of review makes the ALJ’s decision the “final decision” of the
10 Commissioner of Social Security, which this Court is permitted to review. 42
11 U.S.C. §§ 405(g), 1383(c)(1)(3).

12 Plaintiff E.R.’s mother filed a timely appeal on August 25, 2025. ECF No. 1.
13 The matter is before this Court pursuant to 42 U.S.C. § 405(g).

14 **II. CHILDHOOD SEQUENTIAL EVALUATION PROCESS**

15 A child under the age of 18 is considered disabled under the Social Security
16 Act if they have a medically determined physical or mental impairment causing
17 “marked and severe functional limitations, and which can be expected to result in
18 death or which has lasted or can be expected to last for a continuous period of not
19 less than 12 months.” 42 U.S.C. § 1382c(a)(3)(C).

20 The Commissioner has established a three-step sequential evaluation process
21 to determine whether a child is eligible for SSI benefits. *See* 20 C.F.R. § 416.924.

22 **Step One:** Is the child engaged in “substantial gainful activity”? *See* 20
23 C.F.R. § 416.924(a) – (b).

24 **Step Two:** Does the child have a “medically determinable impairment that is
25 severe”? 20 C.F.R. § 416.924(c). Such an impairment is defined as causing “more
26 than minimal functional limitations.” *Id.*

27 **Step Three:** If severe impairment is found, the reviewing entity must
28 consider whether the impairment “medically equals” or “functionally equals” a

1 disability listed in the regulatory Listing of Impairments.¹ 20 C.F.R. § 416.924(c) –
2 (d). The entity reviewing whether a child’s impairment or combination of
3 impairments meets or medically equals a listing must assess six functional
4 domains:

- 5 (i) Acquiring and using information;
- 6 (ii) Attending and completing tasks;
- 7 (iii) Interacting with and relating to others;
- 8 (iv) Moving about and manipulating objects;
- 9 (v) Caring for yourself; and
- 10 (vi) Health and physical well-being.

11 20 C.F.R. § 416.924a(b)(1)(i) – (vi).

12 If at least two of the six functional domains are present or at least one
13 domain is extremely limited, then an impairment is considered to functionally
14 equal a listed impairment. *See* 20 C.F.R. § 416.926a(a). A marked limitation
15 “interferes seriously with [the child’s] ability to independently initiate, sustain, or
16 complete activities.” *Id.* at § 416.926a(e)(2). An extreme limitation “interferes very
17 seriously” with the abilities. *Id.* at § 416.926a(e)(3). A reviewing ALJ must
18 consider all medically determinable impairments—including those not deemed
19 severe—in determining whether a limitation is marked or extreme. *Id.* at §
20 416.926a(a). The ALJ also must consider the limitation of any impairment on any
21 affected domain because “[a]ny given activity may involve the integrated use of
22 many abilities and skills; therefore, any single limitation may be the result of the
23 interactive and cumulative effects of one or more impairments. And any given

24
25 ¹ Disability Evaluation Under Social Security, Listing of Impairments – Childhood
26 Listings (Part B),

27 <https://www.ssa.gov/disability/professionals/bluebook/ChildhoodListings.htm> (last
28 visited May 5, 2025).

1 impairment may have effects in more than one domain.” *Id.* at § 416.926a(c).

2 **III. STANDARD OF REVIEW**

3 The Commissioner’s determination will be set aside only when the ALJ’s
4 findings are based on legal error or are not supported by substantial evidence in the
5 record as a whole. *Matney v. Sullivan*, 981 F.2d 1016, 1018 (9th Cir. 1992) (citing
6 42 U.S.C. § 405(g)). Substantial evidence is “more than a mere scintilla,”
7 *Richardson v. Perales*, 402 U.S. 389, 401 (1971), but “less than a preponderance,”
8 *Sorenson v. Weinberger*, 514 F.2d 1112, 1119 n.10 (9th Cir. 1975). Substantial
9 evidence is “such relevant evidence as a reasonable mind might accept as adequate
10 to support a conclusion.” *Richardson*, 402 U.S. at 401.

11 A decision supported by substantial evidence will be set aside if the proper
12 legal standards were not applied in weighing the evidence and making the decision.
13 *Brawner v. Secr’y of Health & Human Servs.*, 839 F.2d 432, 433 (9th Cir. 1988).
14 An ALJ is allowed “inconsequential” errors as long as they are immaterial to the
15 ultimate nondisability determination. *Stout v. Comm’r, Soc. Sec. Admin.*, 454 F.3d
16 1050, 1055 (9th Cir. 2006). The court must uphold the ALJ’s denial of benefits if
17 the evidence is susceptible to more than one rational interpretation, one of which
18 supports the decision of the administrative law judge. *Batson v. Barnhart*, 359 F.3d
19 1190, 1193 (9th Cir. 2004). It “must consider the entire record as a whole,
20 weighing both the evidence that supports and the evidence that detracts from the
21 Commissioner’s conclusion, and may not affirm simply by isolating a specific
22 quantum of supporting evidence.” *Revels v. Berryhill*, 874 F.3d 648, 654 (9th Cir.
23 2017) (quotation omitted). “If the evidence can support either outcome, the court
24 may not substitute its judgment for that of the ALJ.” *Matney*, 981 F.2d at 1019.

25 **IV. STATEMENT OF FACTS**

26 The facts have been presented in the administrative record, the ALJ’s
27 decision, and the briefs to this Court. Only the most relevant facts are summarized
28 here.

1 Plaintiff's minor child E.R. was born on April 3, 2021, and suffers from left
2 hand symbrachydactyly of the middle, ring, and little finger. Plaintiff E.R.'s
3 mother alleges he also suffers from receptive language delays and chronic viral
4 illnesses.

5 At the time of the ALJ hearing on November 15, 2023, E.R. was an older
6 infant at just over two and a half years of age. Plaintiff E.R.'s mother testified at
7 the hearing that E.R. grabs for items with his left hand initially, such as when he is
8 brushing his teeth. AR 49. But his weak grip causes him to drop objects, and he
9 subsequently reaches out with his right hand. “[W]hen he throws balls or anything,
10 he'll try grabbing it with his left but he can't, so he'll do it with his right.” AR 49.
11 E.R.'s biological father and grandmother are left hand dominant. She further
12 testified:

13
14 He gets frustrated using a fork because he tries grabbing it with [his]
15 left or doing anything with his left and he can't[,] and he'll end up
16 eating with just his hands. Like[,] because he can't grip nothing, so he
gets[,] like[,] frustrated. I'll also catch him at times trying to like do
stuff with that hand, but he just can't[,] and he'll start crying.

17 AR 50.

18 Plaintiff E.R.'s mother described E.R.'s left hand as pig-like, short, and with
19 a dot for a fingernail. He also is missing bones in the hand.

20 The ALJ noted at the hearing that Plaintiff E.R.'s mother had not updated
21 the medical record with information regarding a future surgery planned with a
22 Seattle specialist in spring 2024 to correct the hand. Doctors previously attempted
23 to correct one finger using a splint, without success.

24 Plaintiff E.R.'s mother told the ALJ of another future plan to begin speech
25 therapy because she stated E.R. faces challenges understanding her, unlike other
26 children she observes at his age. “So if I tell him something, he won't – like he'll
27 just look at me for a while. Like[,] I constantly have to repeat myself or I'll just
28 have to do it because he won't understand.” AR 53. During a Receptive Expressive

1 Emergent Language Test – Fourth Edition (“REEL – 4”) standardized language
2 test conducted on April 12, 2023, at age 2, E.R.’s performance was rated -1.5
3 standard deviations below the median or roughly in the 6.5 percentile. He (1) was
4 not using sentences or phrases to communicate his wants and needs; (2) was unable
5 to retrieve items not in the same room; (3) showed signs of frustration when his
6 mother, Plaintiff, took away a quarter coin for safety concerns; and (4) he could
7 not be in the room while his mother was cooking because he did not respond to
8 directions such as “hot” or “danger”.

9 Plaintiff E.R.’s mother further testified about E.R.’s chronic health issues
10 regarding his breathing and noted he gets sick almost every month and must use a
11 nebulizer regularly. He also suffers from ear infections and must receive frequent
12 acute care, including the use of a medication prednisone.

13
14 He has to use it for a good while because he’ll start like being
15 congested and not being able to breathe right, coughing and stuff.
16 They give that to him because there is a possibility, he might have
17 asthma. And his dad does have it.

18 [. . .]
19
20 Like one month [. . .] it’s like his lungs, like a lot of mucous, so he’ll
21 have to use that to help cough up the mucous because if not, they start
22 going down to his – I think it’s called lungs and in Spanish, it’s
23 pumonas. And when he caught RSV, that’s what was happening [. . .]

24 AR 53–54.

25 Between July 1, 2021, and March 8, 2023, E.R. was treated 19 times for
26 various illnesses including viral bronchiolitis, parainfluenza, bilateral otitis media,
fever, diarrhea, congestion, croup, hand/foot/mouth disease, cough,
nasopharyngitis, and vomiting.

27 V. THE ALJ’S FINDINGS

28 The ALJ issued an opinion affirming denial of SSI benefits for Plaintiff on

1 behalf of E.R. AR 18–31. Under the three-part Childhood Sequential Evaluation
2 Test, she found at step one E.R. had not engaged in substantial gainful activity
3 because there was no evidence of work activity for pay or profit on or after the
4 application date. AR 19.

5 At step two, she found E.R. does have severe impairment in the form of
6 symbrachydactyly where his lateral three fingers on his left hand are fused or
7 incompletely formed and his middle finger is flexed. AR 19. She found this
8 medically determinable impairment to be severe because it affects him more than
9 minimally. AR 19.

10 The ALJ found the medically determinable physical impairments of
11 parainfluenza virus on three occasions, otitis media, acute gastroenteritis, traumatic
12 hematoma of the forehead, acute upper respiratory infection, bronchiolitis, and
13 croup, did not meet the duration requirement to be considered chronic and
14 therefore severe. AR 19.

15 At step three, the ALJ determined E.R.’s history of left-handed
16 symbrachydactyly did not rise to the level of meeting or equaling an impairment as
17 listed on the Listing of Impairments, looking particularly at Listing 101.24 for
18 musculoskeletal disorders of infants and toddlers, from birth to attainment of age 3,
19 with developmental motor delay. AR 22. The ALJ determined E.R. had no
20 limitation in domains i – iii and less than a marked limitation in domains iv – vi.
21 AR 22.

22 The ALJ ultimately determined E.R. had not been disabled as defined under
23 the Social Security Act since the time of filing on March 2, 2022. AR 26–27.

24 VI. ISSUES

25 1. Did the ALJ properly evaluate the medical opinions?
26 2. Did the ALJ conduct a proper Step Two evaluation?
27 3. Did the ALJ properly evaluate Plaintiff’s testimony?

28 //

1 VII. DISCUSSION

2 A. The ALJ's Evaluation of the Medical Opinions

3 In evaluating medical opinion evidence, the ALJ considers the
4 persuasiveness of each medical opinion and prior administrative medical finding
5 from medical sources. 20 C.F.R. § 416.920c(a) and (b). The ALJ is required to
6 consider multiple factors, including supportability, consistency, the source's
7 relationship with the claimant, any specialization of the source, and other factors
8 (such as the source's familiarity with other evidence in the file or an understanding
9 of Social Security's disability program). 20 C.F.R. § 416.920c(c)(1)–(5).

10 Supportability and consistency of an opinion are the most important factors,
11 and the ALJ must articulate how they considered those factors in determining the
12 persuasiveness of each medical opinion or prior administrative medical finding. 20
13 C.F.R. § 416.920c(b)(2). The ALJ may explain how they considered the other
14 factors, but is not required to do so, except in cases where two or more opinions
15 are equally well-supported and consistent with the record. *Id.*

16 Supportability and consistency are further explained in the regulations:

17 (1) Supportability.

18 The more relevant the objective medical evidence and supporting
19 explanations presented by a medical source are to support his or
20 her medical opinion(s) or prior administrative medical
finding(s), the more persuasive the medical opinions or prior
administrative medical finding(s) will be.

21 (2) Consistency.

22 The more consistent a medical opinion(s) or prior administrative
23 medical finding(s) is with the evidence from other medical
sources and nonmedical sources in the claim, the more
persuasive the medical opinion(s) or prior administrative medical
finding(s) will be.

25 *Id.*

26 In evaluating medical opinion evidence in a child case, the ALJ also
27 considers evidence that describes the impairment symptoms, signs, and laboratory
28 findings. 20 C.F.R. § 416.924(a)(1). This can include formal testing to show

1 standards of deviation, percentiles, percentages of delay, or age and grade
2 equivalents; it can also include medical opinions regarding the nature or severity of
3 impairments. *Id.* Medical evidence also includes test scores and medical sources,
4 such as clinical examinations. *Id.* But any medical evaluation must consider the
5 information provided by parents and people who know the child, such as teachers
6 and therapists. *Id.*

7 The ALJ is required to consider multiple factors, including how functioning
8 compares to other children without impairments; combined effects of multiple
9 impairments; how well a child can initiate, sustain, and complete activities, with or
10 without adaptations; unusual settings; early intervention and school programs; the
11 impact of chronic illness and limitations on activities over time; and the effects of
12 treatment and intervention. 20 C.F.R. § 416.924a(b)(3)-(9).

13 Plaintiff E.R.’s mother argues the ALJ improperly evaluated the medical
14 opinion evidence of medical expert Dr. William Biles and treating medical
15 physician registered nurse Irma Mejia, APRN.

16 The Commissioner asserts the ALJ’s evaluation of Dr. Biles and APRN
17 Mejia’s opinions was supported by substantial evidence and was legally correct.

18 **1. Dr. Biles’ Medical Opinion**

19 Dr. Biles testified at the administrative hearing and interacted with Plaintiff
20 to clarify pieces of the record and her testimony. Dr. Biles found E.R.’s
21 symbrachydactyly to be a medically determinable impairment but that it did not
22 “meet, equal, or functionally equal a medical listing.” AR 23.

23 For the six domains—and based on his education, knowledge, experience,
24 and review of the record—he found less than marked limitation for two domains
25 and no evidence of limitation in four domains. He specifically noted E.R.’s ability
26 to grasp objects in his left hand using his index finger and thumb and fully flex the
27 two fingers. Fingers three, four, and five were fused and incompletely formed, but
28 with the combination of the other two fingers, he had less than marked limitation

1 on the left hand as a whole. He further found no limitations for acquiring and using
2 information; interacting and relating to others; attending or completing tasks; and
3 caring for oneself. AR 42–43. The less than marked limitations were for moving
4 about and manipulating objects and health and physical wellbeing.

5 Further, Dr. Biles stated the other noted limitations, such as the intermittent
6 sickness, were typical for a young child like E.R. and did not impact his abilities
7 under the six domains because they did not reach the level of chronic illness.

8 In evaluating Dr. Biles testimony and analysis, the ALJ found Dr. Biles
9 opinion to be persuasive. She noted his findings were supported by the medical
10 records and the standardized tests performed to evaluate E.R.’s skills both
11 physically and in language development.

12 The ALJ then looked at objective medical evidence; other medical evidence
13 on the record; information from people in E.R.’s life such as teachers, family
14 members, and friends; statements from E.R.’s parents, including Plaintiff E.R.’s
15 mother, and other caretakers; and other relevant evidence showing E.R.’s functions
16 over time at home, at school, and in the community. She considered whether the
17 impairment resulted in marked limitation in at least two domains or extreme
18 limitation in one domain.

19 The ALJ also considered treatment history. In a July 20, 2021, treatment
20 note from E.R.’s pediatric orthopedist, the doctor noted normal function of the left-
21 hand thumb and index finger but little function of the other three fingers due to the
22 symbrachydactyly. They did not plan for intervention. In a March 1, 2022, follow
23 up appointment, the pediatric orthopedist noted E.R. was doing well and that they
24 would try a splint on the left hand to help with flexion in the middle finger. On
25 June 22, 2022, E.R. was fitted with a splint at Seattle Children’s Hospital.
26 However, subsequent appointments showed no measurable improvement on the
27 middle finger from the splint. On July 11, 2023, E.R. was again seen by a
28 physician who noted he was right hand dominant but used his left hand for playing.

1 On October 17, 2023, E.R. attended another orthopedic consultation, in which
2 Plaintiff E.R.'s mother and E.R.'s father expressed interest in surgical intervention
3 to release the left-hand middle finger for proper flexion. The orthopedist
4 recommended the surgery.

5 Ultimately, the ALJ determined Dr. Biles' findings were "consistent with the
6 evidence as a whole and were persuasive," especially given Dr. Biles'
7 qualifications and expertise as a board-certified pediatrician. AR at. 25.

8 Substantial evidence supports the ALJ's evaluation of Dr. Biles' medical
9 opinion. The ALJ considered his qualifications, the method in which he evaluated
10 E.R.'s ability, and the application of the six functional domains, as outlined in 20
11 C.F.R. § 416.924a(b)(1)(i) – (vi). Further, the ALJ's evaluation of his opinion was
12 consistent with prior medical evaluations and records of E.R.'s treatment.

13 The ALJ reasonably relied on a thorough review of the treatment records,
14 and testimony supported Dr. Biles' finding of less than marked impacts of the
15 symbrachydactyly impairment on E.R.'s abilities.

16 The ALJ **did not err** in evaluating Dr. Biles' medical opinion.

17 **2. APRN Irma Mejia's Medical Opinion**

18 On January 11, 2023, treating provider Irma Mejia, APRN, provided a
19 medical source statement that found E.R. suffers from symbrachydactyly of the left
20 hand, requiring surgery; marked limitation of acquiring and using information due
21 to the left-hand limitation; and marked limitation moving about and manipulating
22 objects with the left hand. She noted these limitations have existed since birth and
23 E.R. was waitlisted for speech and language therapy and received treatment for the
24 left hand at Seattle Children's Hospital. She found his limitations disabling.

25 The ALJ was unpersuaded by APRN Mejia's opinions:

26 In making these determinations, [Nurse Mejia] opined the claimant had
27 limited use of the left hand and a poor prognosis but did not provide
28 any additional rationale. Her determinations did not give adequate

1 consideration to the evidence of record, which showed the claimant had
2 only a standard deviation of -1.5 from the mean on a receptive
3 expressive emergent language test, which, per Dr. Biles testimony, is
4 not a significant deviation in a children of the claimant's age. Her
5 opinion was also inconsistent with the record showing that the claimant
6 retained full range of motion with flexion and extension of the left index
7 finger and thumb, was noted to be able to pinch and grasp with that
8 extremity, and use that extremity to manipulate and move objects.
Furthermore, I gave deference to the testimony of the impartial medical
expert, Dr. Biles, who disagreed with this determination.

8 AR 26.

9 While APRN Mejia's assessment of domain (iv) finding marked limitation
10 moving about and manipulating objects on the left hand was echoed by a Disability
11 Determination Evaluation performed by Dr. Nevine Makari on June 6, 2022, Dr.
12 Makari noted no limitation for domain (i) for acquiring and using information,
13 which differed from APRN Mejia's assessment that E.R. had marked limitation for
14 domain (i). AR 62. Further, Dr. Makari determined E.R. was not disabled despite
15 the left-hand limitations.

16 The ALJ's finding that APRN Mejia's opinion was not persuasive is
17 supported by the substantial evidence in the record as a whole.

18 The ALJ **did not err** in evaluating APRN Mejia's medical opinion.

19 **B. The ALJ's Step 2 Evaluation**

20 In evaluating an impairment at Step 2 of the Childhood Sequential
21 Evaluation Process, the claimant bears the burden of showing the child has a
22 medically "severe impairment" or "combination of impairments." *Barnhart v.*
23 *Thomas*, 540 U.S. 20, 24 (2003). But the test is a "de minimis screening device to
24 dispose of groundless claims" and is not a heavy burden. *Smolen v. Chater*, 80
25 F.3d 1273, 1290 (9th Cir. 1996).

26 First, Plaintiff E.R.'s mother argues the ALJ erred in finding E.R.'s
27 receptive language delay not a severe impairment under the standards for the
28 purposes of SSI benefits. The ALJ considered the REEL 4 exam record and the

1 ALJ's assessment of the record. She deferred to Dr. Biles' conclusion that a
2 standard deviation of -1.5 for language development was within range for a child
3 of E.R.'s age—roughly 2 years and 8 months at the time of assessment. Given the
4 reading, the ALJ determined it was too early to establish the results as signaling a
5 disabling speech/language delay.

6 Second, Plaintiff E.R.'s mother argues the ALJ erred in finding E.R.'s
7 chronic viral illness as not a severe impairment under the standards for the
8 purposes of SSI benefits. The ALJ reviewed the medical records and treatment
9 records regarding E.R.'s bouts with flu, cold, and respiratory infections, but found
10 the episodes to be "acute" and "short-lived," not rising to the level of a chronic
11 illness. E.R.'s weekly use of a nebulizer during these illnesses was not unusual.
12 She also relied on Dr. Biles' assessment that such treatments and infections were
13 not unusual for a child of E.R.'s age.

14 Though the test for impairment at Step 2 is a "de minimis" test, the ALJ's
15 determination of no severe impairment for the receptive language delay claim and
16 for the chronic illness claim was a rational interpretation of the evidence.

17 The ALJ **did not err** in evaluating claims for receptive language delay or
18 for chronic illness at Step 2 of the Childhood Sequential Evaluation Process.

19 C. The ALJ's Evaluation of Plaintiff's Testimony

20 Plaintiff E.R.'s mother argues the ALJ (1) improperly rejected Plaintiff's
21 testimony that E.R. is left-handed; (2) grossly understated the record regarding
22 E.R.'s viral illnesses; and (3) failed to assess E.R.'s language deficits when
23 compared to same-age peers.

24 Lay testimony, as from family members, regarding a claimant's symptoms is
25 evidence an ALJ may consider. *See Lewis v. Apfel*, 236 F.3d 503, 511 (9th Cir.
26 2001). However, "[a]n ALJ need only give germane reasons for discrediting the
27 testimony of lay witnesses. [...] Inconsistency with medical evidence is one such
28 reason." *Bayliss v. Barnhart*, 427 F.3d 1211, 1218 (9th Cir. 2005). In the case of a

1 claimant's testimony, an ALJ must find a clear and convincing reason for rejecting
2 it beyond that it was not "fully corroborated by the objective medical findings."
3 *Smolen*, 80 F.3d at 1285.

4 In her decision, the ALJ considered Plaintiff's testimony, as E.R.'s mother,
5 and the function report provided by Plaintiff and noting functionality for the first
6 year of E.R.'s life. The ALJ found Step (1) in the evaluation process reasonably
7 satisfied, but that the requirements of Step (2) were not met because the allegations
8 of intensity, persistence, and limiting effects made by Plaintiff E.R.'s mother were
9 not consistent with the medical and other evidence on the record. AR 23.

10 The ALJ discussed how E.R.'s family claimed they believed the child was
11 left-handed based on family history. But in reviewing the medical records, she
12 found treating orthopedists believed him to be right-handed after repeated care,
13 including care at Seattle Children's Hospital in 2023. The record also showed E.R.
14 was doing well despite the symbrachydactyly, and that reports of frustration using
15 his left hand were not consistently expressed to treating physicians.

16 As for the testimony regarding respiratory complications and the frequent
17 use of a nebulizer, the record also did not show Plaintiff reported these to
18 physicians enough to show a consistent pattern as to find the bouts of illness
19 resulted in a chronic condition. He received treatment for the viral illnesses on
20 several occasions, as the ALJ noted when looking at records from 2021–2023 from
21 Weaver Family Medicine, Providence Health, and Prosser Memorial Health. But
22 the ALJ determined looking at the totality of the records, when juxtaposed with
23 E.R.'s young age, the evidence did not support a finding of chronic illness and
24 subsequent severe impairment.

25 Finally, the Court addressed the ALJ's findings regarding the receptive
26 language delay claim and found she did not err in her review of the records or
27 finding of no severe impairment.

28 The ALJ properly discredited the testimony of Plaintiff as E.R.'s mother—

1 insofar as it did not support a ruling of severe impairment and not that it was
2 false—and provided a germane reason for doing so because it was inconsistent
3 with the medical records.

4 Thus, the ALJ **did not err** in evaluating and dismissing Plaintiff's testimony
5 as E.R.'s mother and advocate.

6 **VIII. CONCLUSION**

7 Having reviewed the record, the ALJ's findings, and the caselaw, the Court
8 finds the ALJ's decision is supported by the substantial evidence and free of
9 harmful legal error.

10 Accordingly, **IT IS HEREBY ORDERED:**

11 1. Plaintiff's Opening Brief, also noted as Motion for Summary
12 Judgment, ECF No. 10, and Reply Brief, ECF No. 15, are **DENIED**.

13 2. The Commissioner's Response Brief, ECF No. 14, is **GRANTED**.

14 3. The decision of the Commissioner is **AFFIRMED**.

15 4. Judgment shall be entered in favor of the Defendant and against the
16 Plaintiff.

17 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
18 file this Order, provide copies to counsel, and **close** the file.

19 **DATED** this 21st day of May 2025.



23 A handwritten signature in blue ink that reads "Stanley A. Bastian".

24
25 Stanley A. Bastian
26 Chief United States District Judge
27
28